

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

RECEIVED

MAY 19 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
1993 Annual Access Tariff Filings )  
 )  
 )  
GSF Order Compliance Filings )  
 )  
In the Matter of )  
1994 Annual Access Tariff Filings )  
 )  
In the Matter of )  
1995 Annual Access Tariff Filings )  
 )  
In the Matter of )  
1996 Annual Access Tariff Filings )

CC Docket No. 93-193  
Phase I, Part 2

CC Docket No. 94-65

Petition for Reconsideration

Pursuant to Section 1.106 of the Rules of the Federal Communications Commission ("Commission"), GVNW, Inc./Management ("GVNW") hereby files this petition for reconsideration of the April 17, 1997 Memorandum Opinion and Order ("MO&O")<sup>1</sup> in the above-captioned proceeding.<sup>2</sup> As indicated herein, the findings made

---

<sup>1</sup> In the Matter of 1993 Annual Access Tariff Filings; GSF Order Compliance Filings; In the Matter of 1994 Annual Access Tariff Filings; In the Matter of 1995 Annual Access Tariff Filings; In the Matter of 1996 Annual Access Tariff Filings, CC Docket No. 93-193, Phase I, Part 2, CC Docket No. 94-65, Memorandum Opinion and Order, FCC 97-139, rel. April 17, 1997.

<sup>2</sup> The MO&O required that Local Exchange Carriers ("LECs") which participated in the National Exchange Carrier Association, Inc. ("NECA") common line pool and also filed their own traffic sensitive access rates under Section 61.39 of the Commission's Rules in the 1993 access tariff filing respond to certain questions regarding those filings. On May 1, 1997, GVNW made that filing on behalf of the affected LECs/issuing carriers in GVNW's Tariff FCC No. 2, as well as Union Telephone Company. See GVNW's Response to FCC GSF Order, CC Docket No. 93-193, filed May 1, 1997 ("GVNW Response"). The issues raised in the instant petition are substantially the same as those raised in the GVNW Response. Accordingly, the GVNW Response is incorporated herein by reference.

within the MO&O regarding Section 61.39 filing LECs<sup>3</sup> depart from long-standing Commission policy and the specific language of its Rules.<sup>4</sup> In establishing Section 61.39 procedures, the Commission specifically rejected prospective adjustments made to the cost study period, i.e., "known and measurable changes." Without explanation, however, the MO&O specifically requires this approach for the 1993-95 tariff period with respect to the allocation of General Support Facility ("GSF") costs. This radical departure from the Commission's Small Company Order should be reconsidered and reversed. Were Section 61.39 to be changed in the manner contemplated by the MO&O, thereby permitting "known and measurable changes" for this tariff period, all "known and measurable changes" during this period should be permitted.

GVNW (on behalf of its client companies) has assisted with the filing of interstate access rates based on the specific requirements of Section 61.39, including the period of time pertinent here. In making these filings, GVNW is required to follow the specific directives of Section 61.39 of the Commission's Rules:

(1) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Traffic Sensitive rates based on the following:

(i) For the first period, a cost of service study for Traffic Sensitive elements for the

---

<sup>3</sup> See, e.g., MO&O at paras. 48-49 (statements regarding "double recovery" of general support facility costs for Section 61.39 companies participating in the NECA common line pool).

<sup>4</sup> See 47 C.F.R. § 61.39. Section 61.39 was established in the Commission's "Small Company Order." See In the Matter of Regulation of Small Telephone Companies, CC Docket 86-467, Report and Order, 2 FCC Rcd 3811 (rel. June 29, 1987).

most recent 12 month period with related demand for the same period.

(ii) For subsequent filings, a cost of service study for Traffic Sensitive elements for the total period since the local exchange carrier's last annual filing, with related demand for the same period.<sup>5</sup>

Moreover, GVNW was required to follow the specific policy directives of the Commission in implementing Section 61.39. These policies were based, in part, on the finding by the Commission that small company earnings might fluctuate from year to year and that excess earnings in one year would be offset by reduced earnings in future years.<sup>6</sup> Nonetheless, the Commission found that this delay would not systematically bias rates or create significant inequities.<sup>7</sup>

In adopting these policies, however, the Commission specifically rejected the use within the historical year of certain prospective adjustments made to the cost study period, i.e., "known and measurable changes." Adopting this approach would "present most of the same issues as a normal filing with far less assurance that the rates can be considered prima facie reasonable and self-

---

<sup>5</sup> 47 C.F.R. § 61.39(b)(1) (emphasis added).

<sup>6</sup> Small Company Order at para. 16 (self correcting nature of Section 61.69 filing). These periodic fluctuations in demand, expenses, investment, separations rules or access rules do not, however, in the long term, produce excessive or insufficient earnings. Historic rules simply create a delay in realizing the benefit or detriment of these changes.

<sup>7</sup> Id. "While we recognize that some delay will occur between events that arise during the rate period and subsequent rate changes, we do not believe that the delay would systematically bias rates or that the delay is so significant as to warrant revising the rules as suggested."

correcting."<sup>8</sup> The Commission also noted its concern that "[a]n exchange company might propose to implement only 'known and measurable' changes that benefit it, not those which benefit end users and interexchange carriers. . . ."<sup>9</sup>

Under both the Commission's specific rules and policies, therefore, separations rule changes could not be reflected by a Section 61.39 filing company until the appropriate historical period. The MO&O undermines this long-standing Commission policy by requiring Section 61.39 companies to reflect an out-of-period separations rule change, GSF cost allocation, without reconciling this requirement with the Commission's past pronouncements in the Small Company Order. GVNW is concerned that the Commission's policies expressed in the Small Company Order cited above have been undermined by the MO&O's imposition of "known and measurable changes" to the sole benefit of the Interexchange Carriers ("IXCs").<sup>10</sup>

GVNW submits that imposing the requirements of the MO&O is contrary to, and an unexplained departure from, established

---

<sup>8</sup> Id. "But a hybrid filing using some historical data and some prospective data would present most of the same issues as a normal filing, with far less assurance that the rates can be considered prima facie reasonable and self-correcting."

<sup>9</sup> Id.

<sup>10</sup> GVNW recognizes that if a company files traffic sensitive access rates under Section 61.39 and also participates in the NECA common line tariff, there are always discontinuities between the two filings. Investments, expenses, demand, and separations and access rules will likely differ between the two filings. Depending on the nature of those differences, they may temporarily provide advantage or disadvantage to the LEC or to its IXC customers. These fluctuations, however, were recognized by the Commission and rejected in its pronouncement to disallow the use of "known and measurable changes."

Commission rules and policies. Accordingly, GVNW respectfully submits that the MO&O with regard to the Section 61.39 companies be reconsidered and reversed.

In the alternative, were the Commission to change Section 61.39 in a manner contemplated by the MO&O and require application of "known and measurable changes" to the historical period, GVNW respectfully submits that all such changes be reflected for the period at issue.<sup>11</sup> This will ensure proper and consistent application of the Commission's rules to affected LECs, and will ensure that "known and measurable changes" are applied in a manner that does not favor IXCs over a Section 61.39 LEC or end users of the IXC's service.

Respectfully submitted,

GVNW Inc./Management

By: Trey Judy (se)  
Trey Judy

GVNW, Inc./Management  
2270 La Montana Way  
Colorado Springs, Colorado 80918  
(719) 594-5800

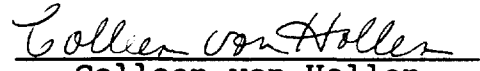
May 19, 1997

---

<sup>11</sup> GVNW notes that other changes, including separations changes (particularly the factors allocating subscriber plant and central office equipment) were being made during the tariff period addressed in the MO&O. For example, as required by Section 61.39, the separations rules applicable in the historical cost study period were used rather than those that would be applicable in a prospective period based on the Commission's specific determination that "known and measurable changes" should not be reflected in the historical period. This process has generally been to the benefit of IXC customers since the allocations of central office equipment were generally increasing during this period due to the separations rules changes. No IXC complained that this was an inappropriate application of the historical rules.

**CERTIFICATE OF SERVICE**

I, Colleen von Hollen, of Kraskin & Lesse, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that on this 19th day of May, 1997, a copy of the foregoing "Petition for Reconsideration" on behalf of GVNW Inc./Management, was served by first class, U.S. mail, postage prepaid, to the parties on the attached pages:

  
Colleen von Hollen

Regina M. Keeney, Chief \*  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, Room 500  
Washington, DC 20554

ITS \*  
1919 M Street, Room 246  
Washington, DC 20554

Carolyn Hill  
Alltel Service Corp.  
1710 Rhode Island Avenue, NW  
Suite 1000  
Washington, DC 20036  
Counsel for Sugarland Telephone

Barbara J. Kern  
Michael S. Pabian  
Ameritech Operating Companies  
2000 W. Ameritech Center Drive, 4H88  
Hoffman Estates, IL 60196-1025

Alane C. Weixel  
Covington & Burling  
1201 Pennsylvania Avenue, NW  
Washington, DC 20044  
Counsel for Anchorage Telephone Utility

James U. Troup  
Arter & Hadden  
1801 K Street, NW, Suite 400K  
Washington, DC 20006  
Counsel for Bay Springs,  
Elkhart Telephone Co., Inc., et. al.

Edward Shakin  
Bell Atlantic Telephone Companies  
1710 H Street, NW  
Washington, DC 20006

Robert Sutherland  
Richard Sbaratta  
Rebecca Lough  
BellSouth Telecommunications, Inc.  
4300 Southern Bell Center  
675 West Peachtree Street, NW  
Atlanta, GA 30375

Stephen G. Kraskin  
Kraskin & Lesse, LLP  
2120 L Street, NW, Suite 520  
Washington, DC 20037  
Counsel for Century Telephone of Ohio,  
Century Telephone of Wisconsin,  
Coastal Utilities, et.al.,  
Concord Telephone,  
Dunkirk & Fredonia Telephone,  
Rhineland Telephone,  
Warwick Telephone,  
Wilkes Telephone,  
Wood County Telephone

Benjamin H. Dickens, Jr.  
Gerard Duffy  
Blooston Mordkofsky Jackson & Dickens  
2120 L Street, NW, Suite 300  
Washington, DC 20037  
Counsel for Chillicothe Telephone Co.,  
Granite State Telephone,  
Merrimack County Telephone,  
Lufkin-Conroe Telephone,  
Utelco, Inc.,  
City of Brookings

R.E. Sigmon  
Cincinnati Bell Telephone  
201 E. Fourth Street, 102-320  
P.O. Box 2301  
Cincinnati, OH 45201

Ellen S. Deutsch  
Citizens Utilities  
P.O. Box 496020  
Redding, CA 96049-6020

Gail Polivy  
GTE Service Corp.  
1850 M Street, NW  
Suite 1200  
Washington, DC 20036

Richard McKenna, HQE03J36  
GTE Service Corp.  
P.O. Box 152092  
Irving, TX 75015-2092

Paula Carpenter  
Regulatory Administrator  
Illinois Consolidated Telephone Co.  
121 South 17th Street  
Mattoon, IL 61938



Robert Mazur  
Albert Shuldiner  
Nixon Hargrave Devans & Doyle  
One Thomas Circle, NW, Suite 800  
Washington, DC 20005  
Counsel for the Lincoln Telephone Company

Joanne S. Bochis  
NECA  
100 South Jefferson Road  
Whippany, NJ 07981

Edward Wholl  
Campbell L. Ayling  
Joseph Di Bella  
NYNEX  
120 Bloomingdale Road  
White Plains, NY 10605

John Staurulakis, Inc.  
6315 Seabrook Road  
Seabrook, MD 20706  
Counsel for Ogden Telephone Co.

John Bogy  
Pacific Bell & Nevada Bell  
1275 Pennsylvania Avenue, NW, Suite 400  
Washington, DC 20004

James P. Tuthill  
John Bogy  
Pacific Telesis  
140 New Montgomery Street, Room 1530-A  
San Francisco, CA 94105

James L. Wurtz  
Pacific Telesis  
1274 Pennsylvania Avenue, NW  
Washington, DC 20004

PacTel Group  
1275 Pennsylvania Avenue, NW, Suite 400  
Washington, DC 20004

Margaret E. Garber  
Pacific Telesis  
645 E. Plumb Lane Room B124  
Reno, NV 895-2

Michael Shortley, III  
Rochester Telephone Corp.  
180 South Clinton Avenue  
Rochester, NY 14646

George Petrusas  
Paul J. Feldman  
Fletcher, Heald & Hildreth  
1300 North 17th Street, 11th Floor  
Rosslyn, VA 22209  
Counsel for Roseville Telephone

Eugene J. Baldrate  
Southern New England Telephone Co.  
227 Church Street, 4th Floor  
New Haven, CT 06506

Robert M. Lynch  
Richard C. Hartgrove  
Thomas A. Pajda  
Southwestern Bell Telephone Co.  
One Bell Center, Room 3520  
St. Louis, MO 63101

Jay C. Keithley  
United and Central Telephone Cos.  
1850 M Street, NW  
Suite 1100  
Washington, DC 20036

W. Richard Morris  
United/Central Telephone Cos.  
P.O. Box 11315  
Kansas City, MO 64112

James T. Hannon  
US West  
1020 19th Street, NW  
Suite 700  
Washington, DC 20036

Michael Wack  
Reed, Smith, Shaw & McClay  
1200 18th Street, NW  
Washington, DC 20036  
Counsel for Virgin Island Telephone

John Richardson  
Richardson, Lange & Donovan  
206 North Central Avenue  
Hazen, ND 58545  
Counsel for West River Telecommunications, Inc.

Joel Ader  
Bellcore  
2101 L Street, NW, 6th Floor  
Washington, DC 20037

James S. Blaszk  
Francis E. Fletcher  
Gardner, Carton & Douglas  
1301 K Street, NW  
900 East Tower  
Washington, DC 20005  
Counsel for Ad Hoc  
Telecommunications Users Committee

Michael Shortley, III  
Frontier Corporation  
(Allnet Communications)  
180 South Clinton Avenue  
Rochester, NY 14646

Francine J. Berry  
Robert J. McKee  
Peter H. Jacoby  
Judy Sello  
AT&T  
Room 3244J1  
295 N. Maple Avenue  
Basking Ridge, NJ 07920

Loretta J. Garcia  
Donald J. Elardo  
MCI Telecommunications  
1801 Pennsylvania Avenue, NW  
Washington, DC 20006

\* Via Hand Delivery